

203-011435

Substitute
TITLE PAGE

AGREEMENT NAME: AMERICAN PRESIDENT LINES, LTD. ("APL")
TRANSPORTACION MARITIMA MEXICANA,
S.A. DE C.V. ("TMM")
SPACE CHARTER AGREEMENT

FMC NUMBER: _____

CLASSIFICATION: The generic classifications of this Agreement within the
meaning of 46 C.F.R. §572.104 are Space Charter Agreement
and Cooperative Working Arrangement

DATE LAST REPUBLISHED: Not Applicable

EXPIRATION DATE: _____



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ARTICLE 1: FULL NAME OF THE AGREEMENT

The full name of this Agreement is the APL/TMM SPACE CHARTER AGREEMENT (the "Agreement").

ARTICLE 2: PURPOSE OF THE AGREEMENT

The purpose of this Agreement is to permit each of the Parties to it to achieve efficiencies and economies in their respective services offered in the Trade (as hereinafter defined) covered by the Agreement, all to the benefit of the Parties and the shipping public.

ARTICLE 3: PARTIES TO THE AGREEMENT

The parties to the Agreement (hereinafter "Party" or "Parties") are:

1. AMERICAN PRESIDENT LINES, LTD.
1111 Broadway
Oakland, California 94607



2. TRANSPORTACION MARITIMA MEXICANA, S.A. DE C.V.
Av. de la Cuspide No. 4755 - 10th Floor
14010 Mexico, D. F.

ARTICLE 4: GEOGRAPHIC SCOPE OF THE AGREEMENT

The Agreement covers the trades and various subtrades between ports and points in the Far East, the Indian Subcontinent and the Middle East, and ports in the states of California and Washington in the United States and interior and coastal points in the United States via such U.S. ports (collectively, the "Trade"). The "Far East, Indian Subcontinent and Middle East" is defined to include Japan, Siberia, Korea, People's Republic of China, Taiwan, Hong Kong, Macao, Thailand, Democratic Kampuchea (Cambodia), Vietnam, Singapore, Malaysia, Laos, Burma, Brunei, Philippines, Sri Lanka, Indonesia, Australia, New Zealand, India, Pakistan, Bangladesh, the United Arab Emirates, and Saudi Arabia. "United States" means the several states thereof, its commonwealths, territories and possessions.

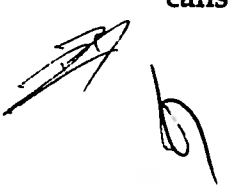
ARTICLE 5: AGREEMENT AUTHORITY

5. (a) Limited Grant. Notwithstanding any other provision of this Agreement, APL shall not be authorized by this Agreement to charter space to TMM in its individual services, if any, between the continental United States and Hawaii; between

the United States (including Hawaii) and Guam; and between any other ports or points in the U.S. domestic trade. Nor shall this Agreement be construed as granting a right to TMM to carry aboard APL vessels cargoes shipped from, to, or on behalf of, any U.S. government agency which shipments are subject to cargo preference laws requiring transportation aboard vessels documented under the laws of the United States. TMM shall not slot-charter or sub-charter any of the space on APL vessels granted to TMM pursuant to this Agreement to any other ocean common carrier or non-vessel-operating common carrier without the prior written consent of APL; provided however, that TMM may enter into bills of lading for the transportation of shipments of non-vessel-operating common carriers pursuant to TMM tariffs on file with the Federal Maritime Commission.

5. (b) Space Charter. The Parties may discuss and agree upon the terms and conditions pursuant to which APL may charter space to TMM in the Trade on APL vessels sailing from or to ports in the states of California and Washington and on the vessels of third party carriers on which vessels APL has chartered space to and from such ports. The parties may from time to time agree on the number of containers or amount of space to be so chartered and the rates, charges or other compensation to be paid or otherwise exchanged for said transportation.

5. (c) TMM Withdrawal. The Parties may discuss and agree upon the withdrawal, in whole or in part, and on a temporary or seasonal basis, of TMM vessel calls at U.S. Pacific Coast ports in TMM's services between ports in Asia and Mexico



and U.S. Pacific Coast ports. With respect to any TMM vessel calls to U.S. Pacific Coast ports from time to time, the Parties may discuss and agree upon the compensation, schedule, terms and conditions of carriage of empty APL containers aboard TMM vessels.

5. (d) Feeders. The Parties may discuss and agree upon any and all aspects of feeder operations in the Far East in connection with and ancillary to their services in the Trade, including, without limitation, the deployment and utilization of feeder vessels, feeder vessel sailing schedules, service frequency, ports to be serviced, port rotation, the number, type and capacity of feeder vessels, the terms and conditions under which the Parties shall share the capacity of feeder vessels, and the terms and conditions of addition or withdrawal of feeder vessel capacity.

5. (e) Equipment Interchange and Services. The Parties may interchange empty containers, chassis related equipment to provide for the efficient use of such equipment on such terms as they may agree. The Parties may also jointly contract with or coordinate in contracting with stevedores, terminals, ports, and suppliers of equipment, land or services or may designate the other to provide such services on the designating Party's behalf.

5. (f) No Joint Service. The space chartering contemplated hereby and the cooperative use of equipment, terminals, stevedores, ports, and suppliers to the extent provided hereunder do not create a joint service or permit the Parties to



pool cargo or revenue except as may be permitted under agreements to which the Parties may subscribe from time to time which agreements are filed with the FMC and effective pursuant to the Shipping Act of 1984. Each party shall utilize and maintain its own marketing and sales organizations. TMM shall issue its own bills of lading for cargo moving on APL vessels.

5. (g) Pricing. The Parties shall discuss and may agree on a common position as to their conference/non-conference status in the Trade. The Parties may, on a voluntary basis and subject to the terms and conditions of any conference, rate, discussion or other agreement to which either may subscribe from time to time, discuss and agree upon any rates, rules, service items, or other terms and conditions of service contracts or tariffs maintained or contemplated by either Party or by a conference in their behalf in their respective services offered in the Trade.
5. (h) Systems. The Parties may discuss and agree on terms and conditions of joint development, implementation, and interchange of documentation, data systems, information and data, other operating systems, and computerization and joint communication, including any joint negotiations, leasing or contracting relating thereto.
5. (i) Administrative Matters. The Parties may also discuss and agree upon such general administrative matters and other terms and conditions concerning the implementation of this Agreement as may be necessary or convenient from



time to time, including, but not limited to, performance procedures and penalties, procedures for allocating space, forecasting, terminal operations, stowage planning, schedule adjustments, record-keeping, responsibility for loss or damage of cargo and equipment, the terms and conditions for force majeure relief, insurance, liabilities, claims, indemnification, consequences for delays, and treatment of hazardous and dangerous cargoes.


ARTICLE 6: OFFICIALS OF THE AGREEMENT AND
DELEGATIONS OF AUTHORITY

The following are authorized to subscribe to and file this Agreement and any accompanying materials and any subsequent modifications to this Agreement with the Federal Maritime Commission:

- (i) Any authorized officer of each of the Parties; and
- (ii) Legal counsel for each of the Parties.

ARTICLE 7:
MEMBERSHIP AND READMISSION

Membership is limited to the Parties hereto except that additional carriers may be admitted or readmitted by unanimous consent of the Parties and by



amendment of the Agreement pursuant to the Shipping Act of 1984 and subject to the approval of MarAd, if required.

ARTICLE 8: VOTING

All actions taken pursuant to this Agreement shall require mutual agreement of the Parties.

ARTICLE 9: DURATION AND TERMINATION OF AGREEMENT

(a) Effective Date and Term

This Agreement shall take effect as of the date the Agreement may become effective pursuant to the Shipping Act of 1984 and shall continue for a period of three (3) years. Upon the expiration of such three-year period, this Agreement shall continue in effect unless or until this Agreement is terminated upon not less than three (3) months prior written notice.

(b) Termination

(1) A Party may, as hereinafter provided, withdraw from this Agreement in the event that, after consultation as ~~required~~ provided for hereinafter, the Parties are unable to agree from time to time upon rate policies or actions reflected in the publication of tariff rates and service items in the Trade.

amendment of the Agreement pursuant to the Shipping Act of 1984 and subject to the approval of MarAd, if required.

ARTICLE 8: VOTING

All actions taken pursuant to this Agreement shall require mutual agreement of the Parties.

ARTICLE 9: DURATION AND TERMINATION OF AGREEMENT

(a) Effective Date and Term

This Agreement shall take effect as of the date the Agreement may become effective pursuant to the Shipping Act of 1984 and shall continue for a period of three (3) years. Upon the expiration of such three-year period, this Agreement shall continue in effect unless or until this Agreement is terminated upon not less than three (3) months prior written notice.

(b) Termination

(1) A Party may, as hereinafter provided, withdraw from this Agreement in the event that, after consultation as required hereinafter, the Parties are unable to agree from time to time upon rate policies or actions reflected in the publication of tariff rates and service items in the Trade. Either

Either Party may ~~demand~~ seek consultation and the Parties shall thereafter promptly endeavor in good faith to resolve their differences. If, within three (3) months of the date of such ~~demand~~ request, the Parties fail to reach agreement as to the tariff rate or service item in dispute, or to exceptions therefrom, the Party having ~~made demand for~~ requested consultation may withdraw from this Agreement upon three (3) months prior written notice.

(2) If any government or agency thereof imposes upon APL or TMM any restriction or fails to grant or withdraws any required approval, which restriction, or the absence of which approval, would have a material adverse effect upon either Party, then either Party may terminate the Agreement upon not less than three (3) months prior written notice.

(3) Either Party may terminate the Agreement at any time immediately by serving written notice thereof on the other Party if the other Party files, or has filed against it, proceedings under bankruptcy, insolvency or other similar laws.

(4) The FMC shall be promptly notified in writing following the termination date of this Agreement.

ARTICLE 10: APPLICABLE LAW

The interpretation, construction and enforcement of this Agreement shall be governed by (i) the laws of the State of New York without reference to the laws of New York respecting conflicts of laws, and (ii) to the extent applicable, the laws of the United States.

Party may demand consultation and the Parties shall thereafter promptly endeavor in good faith to resolve their differences. If, within three (3) months of the date of such demand, the Parties fail to reach agreement as to the tariff rate or service item in dispute, or to exceptions therefrom, the Party having made demand for consultation may withdraw from this Agreement upon three (3) months prior written notice.


(2) If any government or agency thereof imposes upon APL or TMM any restriction or fails to grant or withdraws any required approval, which restriction, or the absence of which approval, would have a material adverse effect upon either Party, then either Party may terminate the Agreement upon not less than three (3) months prior written notice.

(3) Either Party may terminate the Agreement at any time immediately by serving written notice thereof on the other Party if the other Party files, or has filed against it, proceedings under bankruptcy, insolvency or other similar laws.

(4) The FMC shall be promptly notified in writing following the termination date of this Agreement.

ARTICLE 10: APPLICABLE LAW


The interpretation, construction and enforcement of this Agreement shall be governed by (i) the laws of the State of New York without reference to the laws of New York respecting conflicts of laws, and (ii) to the extent applicable, the laws of the United States.



ARTICLE 11: ARBITRATION



(a) Except as otherwise provided herein, any dispute or claim arising hereunder which is not amicably settled by the Parties shall be settled by arbitration. Unless otherwise agreed, arbitration shall be held in New York, N.Y. by a panel of three arbitrators familiar with ocean container shipping, unless the Parties can agree on a single arbitrator, none of which shall have any interest in or with either Party. Arbitration shall be conducted under title 9 of the United States Code and otherwise in accordance with the arbitration Rules of the Society of Maritime Arbitrators, Inc.

(b) Either Party hereto may call for such arbitration by service upon the other at the address specified in Article 13 hereof of a written notice specifying the name and address of the arbitrator it chooses and a brief description of the disputes or differences which such party desires to put to arbitration. If the other party shall not, by notice served upon the first moving party at the address specified in Article 13 hereof within twenty days of the service of such first notice, appoint its arbitrator to arbitrate the dispute or differences specified, then the party calling for arbitration shall have the right without further notice to appoint a second arbitrator, who shall be a disinterested person with precisely the same force and effect as if said second arbitrator had been appointed by the other Party. In the event that the two arbitrators fail to appoint a third arbitrator



within twenty days of the appointment of the second arbitrator, either arbitrator may apply to a judge of any court of competent jurisdiction in New York, N.Y. for the appointment of a third arbitrator, and the appointment of such arbitrator by such judge on such application shall have precisely the same force and effect as if such arbitrator had been appointed by the two arbitrators. Until such time as the arbitrators finally close the hearings, either Party shall have the right by written notice served on the arbitrators and on the other Party to specify further disputes or differences under this Agreement for hearing and determination.

(c) The arbitrators, by majority vote in writing, may award damages and expenses which they deem proper. In addition, the arbitrators shall assess the costs of the arbitration including interest, pre-judgment interest, their fees and reasonable attorney's fees, against either party, or both, in such manner as they shall set forth in their written findings of facts and conclusions. Such decision shall be final and conclusive, shall be rendered within 90 days of the final submissions of the Parties, including briefs, and may be enforced in a court of competent jurisdiction. The arbitrators may not award exemplary or punitive damages nor may they order specific performance. A copy of such decision shall be served by the arbitrators on the Parties.



ARTICLE 12: NON-ASSIGNMENT

Neither Party shall assign its rights or delegate its duties under this Agreement to any other person or entity without the prior written consent of the other Party.

ARTICLE 13: NOTICES

All notices pertaining to the Agreement, except as the Parties may otherwise provide, shall be sent by telex or facsimile transmission and confirmed by first class mail, postpaid. Mail shall be addressed as follows:


1. AMERICAN PRESIDENT LINES, LTD.
1111 Broadway
Oakland, California 94607
Attn: Vice President - Logistics

2. TRANSPORTACION MARITIMA MEXICANA, S.A. DE C.V.
Av. de la Cuspide No. 4755 - 10th Floor
14010 Mexico, D.F.
Attn: Executive Director

ARTICLE 14: ENFORCEABILITY

(a) If at any time during the performance of the Agreement, any non-material term, covenant, condition or proviso contained in the Agreement or the application thereto to any person or circumstances shall be held to be invalid, illegal or unenforceable, the remainder of the Agreement or the application of such term, covenant, condition or proviso to persons or circumstances other than those to which it is invalid, illegal or unenforceable shall not be affected thereby and each term, covenant, proviso or condition of the Agreement shall be valid and be enforceable to the full extent permitted by law.

(b) If during the effective period of this Agreement the Shipping Act of 1984 is amended, repealed, or authoritatively interpreted by the Federal Maritime Commission or a court of competent jurisdiction in such a manner as to result in (i) the prohibition of conferences or the loss of antitrust immunity in respect of activities encompassed by this Agreement, or (ii) inability on the part of the parties to limit APL's grant of space hereunder to non-cargo preference shipments, and such amendment, repealed provision or interpretation is not replaced by any other law, regulation or judicial or administrative action authorizing the continuation thereof, any provision of this Agreement that is invalid, illegal or unenforceable shall immediately be severed and all other terms and conditions shall remain in full force and effect and be valid and enforceable to the full extent provided by law. As soon as possible thereafter, the parties agree to meet to consult and explore opportunities to conform the arrangement

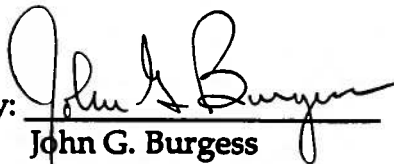


between them contemplated hereby to a mutually satisfactory arrangement which permits the same or substantially similar practices provided for herein to be continued in compliance with all federal and state antitrust, shipping and other laws. If, after full consultation, this objective cannot be met in the good faith opinion of either party, that party may terminate this Agreement upon not less than three (3) months prior written notice.

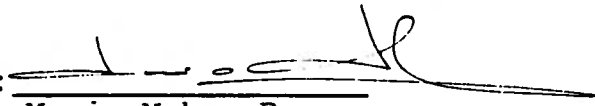
ARTICLE 15: SIGNATURE PAGE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized officers or agents.

AMERICAN PRESIDENT
LINES, LTD.

By: 
John G. Burgess
Its: Executive Vice President

TRANSPORTACION MARITIMA
MEXICANA, S.A. DE C.V.

By: 
Mario Mohar P.
Its: Executive Director

Dated: November 9, 1993